

REMARKS

The Examiner has rejected the application on various bases. Applicant has amended the application so as to overcome the rejections of the Examiner, and so as to place the application in condition for allowance at the present time.

At the outset, Applicant acknowledges that the Examiner has accepted the drawing changes.

The Examiner has rejected claims 1 and 3 under 35 U.S.C. §102(b) based on the contention that they are unpatentable over U.S. Pat. No. 3,437,117 issued to Vitello et al (the '117 patent). The Examiner has rejected claims 1 and 3 have been rejected under 35 U.S.C. §103(a) based on the contention that they are unpatentable over the '117 patent. The Examiner has rejected claims 3 and 4 under 35 U.S.C. §103(a) as being unpatentable over the '117 patent in view of U.S. Pat. No. 6,200,300 issued to Petriekis et al (the '300 patent). The Examiner has rejected claims 10-12 and 14 under 35 U.S.C. §103(a) as being unpatentable over the '117 patent in view of the '300 patent. Claim 13 has been rejected under 35 U.S.C. §103(a) as being unpatentable over the '117 patent in view of the '300 patent. Applicant respectfully traverses the Examiner's rejections.

Applicant submits that the subject matter of claim 1 and claim 10, as amended, is not disclosed or reasonably suggested by the prior art. In particular, Applicant invention as claimed requires a top seal wherein the seal is achieved by bonding of the front and back panels. The hang tabs are adhered to the outside of the back panel, and define an adhesive edge which is spaced apart from the top seal. In such a configuration, as the hang tabs are utilized and attached to an outside object, the container rotates and the adhesive edge becomes the effective top seal of the container. As such, the fitment likewise rotates and effectively becomes positioned at the

effective bottom of the container.

The '117 patent discloses a container. The container includes an open top end. Member (denoted by reference character 16) is attached to the inside of the container and a portion (namely, tab 20), is projected through a slit on the front panel (See Fig. 4 of the '117 patent and Col.2, lines 40 through 50). In operation, the rigid member 16 is turned such that a portion of the back panel extends over the front panel and forms fold 30. Such a overlapping positions the tab 20 at the top of the container, and allows for suspension. To be sure fold 30 is not a bonded seal, and the container is fluid-tight only insofar as fluid is not directed toward fold 30, and insofar as the container remains suspended. Indeed, an additional split tube 40 (Fig. 9) must be utilized if a fluid-tight chamber is to be realized.

The '117 patent does not include a top seal which bondingly seals the front and back panels. Moreover, the '117 patent does not disclose hang tabs positioned on the outside surface of the back panel. Furthermore, the '117 patent does not disclose an adhesive edge which is spaced apart from the top seal. Indeed, the inclusion of a top bonded seal would render the invention of the '117 patent inoperable. Furthermore, as is shown in Figs. 4 and 5, when hung, the bottom seal remains the effective bottom of the container, and the outlet remains spaced apart from the bottom.

The '300 patent likewise does not contemplate, disclose or suggest the use of a hanging tab on the outside of one of the panels such that when hung, the container rotates so that the fitment is positioned at the effective bottom of the container.

To the contrary, and as specifically claimed, the present invention includes a container that includes a front and back panel which is bondingly sealed to each other to form a fluid-tight cavity. A top seal is defined and the hang tabs are positioned below the top seal, with an adhesive

edge spaced apart from the top seal. In such a configuration, when the bag is hung from an outside object, the container naturally rotates such that the adhesive edge becomes the effective top of the container, the top seal rotates beyond the adhesive seal and the fitment is positioned proximate the effective bottom of the container.

Advantageously, the fully sealed container of the present invention provides for a package that can be filled and shipped in a filled condition – without the cumbersome sleeve, the container of the '117 patent is not transportable (even with the sleeve, the actual ability to ship such a container is quite suspect). Furthermore, as claimed, the container of the present invention provides a manner in which to provide additional utility to a formed pillow container through the adhesion of hang tabs on the outside of the back surface thereof. This does not require the reformulation of the equipment; rather, application of the hang tabs can be done to formed containers. Heat sealing of the tabs would require an additional operation in the middle of the pillow container forming equipment.

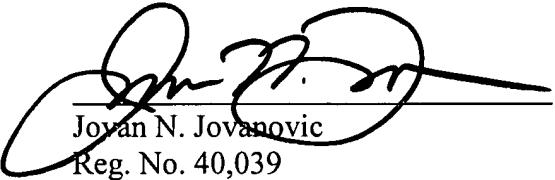
With respect to claim 3 and new claim 15, this claim requires that the entirety of the hang tab be positioned so as to overlay the back panel. With such a requirement, the hang tabs can lie flat against the back panel and when bags of the present invention are stacked for shipment, such a configuration minimizes the ability of the hang tabs of one bag to interfere with structures of other bags.

In summary, Applicant submits that all of the presently pending claims, including, claims 10-16, should be deemed allowable at the present time. Accordingly, reconsideration is respectfully solicited.

Should anything further be required by the Examiner, a telephone call to the undersigned  
is respectfully solicited.

Respectfully Submitted,

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